

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID M. NJENGA,

Petitioner,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Respondent.

CASE NO. C07-0134-RSL-JPD

ORDER DENYING STAY OF
REMOVAL

Petitioner is a native and citizen of Kenya. (Dkt. #14 at 2, Dkt. #15, Ex. A). On February 15, 2007, petitioner, proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by the U.S. Immigration and Customs Enforcement (“ICE”). (Dkt. #5). On March 28, 2007, respondent filed a Return Memorandum and Motion to Dismiss and submitted documents indicating that ICE has obtained a travel document for petitioner’s removal to Kenya, and that his removal to Kenya is imminent. (Dkt. #14, Dkt. #15). On April 9, 2007, petitioner filed the instant Motion for an Emergency Stay of Removal, requesting that the Court enter a temporary thirty (30) day stay of his removal to Kenya so that he can correspond with the Kenyan government before his removal. (Dkt. #18). At the same time, petitioner also filed a Petition for Review in the Ninth Circuit Court of Appeals and an Emergency Stay of Removal. *See Njenga v. Gonzales*, Case

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No. 07-71330 (9th Cir. April 9, 2007). Pursuant to the Ninth Circuit's General Order 6.4(c)(1), petitioner's order of removal was automatically temporarily stayed until further order of the Ninth Circuit upon the filing of his petition for review and request for stay. *Id.*, see also *DeLeon v. INS*, 115 F.3d 643 (9th Cir. 1997) (holding that a final order of deportation or removal is automatically temporarily stayed upon the filing of a motion or request for stay of deportation or removal in a petition for review of such order). The Ninth Circuit has directed the government to file a response to petitioner's motion for stay of removal by July 2, 2007. *Id.*


Accordingly, the Court hereby finds and ORDERS as follows:

(1) Petitioner's request for a temporary thirty (30) day stay of removal, Dkt. #18, is DENIED. Because petitioner has already been granted a temporary stay of removal by the Ninth Circuit Court of Appeals, the Court finds that petitioner's motion for stay of removal should be denied as moot.

(2) The Court expresses no views at this time as to the merits of petitioner's habeas petition.

(3) The Clerk shall direct a copy of this Order to the parties, and shall forward a copy of this Order to Judge Donohue.

DATED this 16th day of April, 2007.


Robert S. Lasnik
United States District Judge

Recommended for Entry
this 16th day of April, 2007.

s/ Mary Alice Theiler for
JAMES P. DONOHUE
United States Magistrate Judge